

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1228

Introduced by Senator Morrow
(Principal coauthor: Senator Runner)
(Coauthor: Senator Battin)
~~(Coauthor: Assembly Member Mountjoy~~ **Coauthors: Assembly**
Members DeVore and Mountjoy)

February 6, 2006

An act to amend Section 351 of, and to add Chapter 4 (commencing with Section 1630) to Part 5 of Division 4 of, the Family Code, relating to marital contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1228, as amended, Morrow. Covenant marriage.

Existing law establishes the procedures by which parties to a marriage may seek a dissolution of the marriage or a legal separation. Existing law also governs marital agreements between a husband and wife.

This bill would enact the *Voluntary Covenant Marriage and Child Protection Act* of 2006. The bill would establish procedures by which a couple may enter into a marital contract rejecting the right to a dissolution of marriage or a legal separation on grounds of irreconcilable differences, except in certain circumstances. The bill would require couples to receive ~~marital premarital education~~ *premarital education* counseling before entering into a covenant marriage and ~~predissolution counseling before divorcing~~ *predissolution counseling before filing a petition for a dissolution of marriage or legal separation*. The bill would also require parties to submit to the county clerk or the court, respectively, a certificate of completion of premarital education counseling or

predissolution counseling. The bill would also require parties to pay costs associated with satisfying the premarital education counseling requirement.

Existing law requires the parties to a marriage to obtain a license from a county clerk. Existing law requires a marriage license to contain specific information about the parties to the marriage, including their identity, real and full names, places of residence, and ages.

The bill would also require the marriage license to include a space designated for parties entering into a covenant marriage to indicate their mutual consent by ~~each's~~ *each party's* signature, as specified. ~~By~~

By increasing the duties of county clerks, the bill would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 351 of the Family Code is amended to
2 read:
3 351. (a) The marriage license shall show all of the following:
4 (1) The identity of the parties to the marriage.
5 (2) The parties' real and full names, and places of residence.
6 (3) The parties' ages.
7 (b) The marriage license shall also contain a space designated
8 for parties who choose to enter into a covenant marriage,
9 pursuant to Chapter 4 (commencing with Section 1630) of Part 5
10 of Division 4. The parties shall indicate their mutual consent to a
11 covenant marriage, including acknowledgment of completion of
12 premarital counseling, by each's signature within the designated
13 space on the license.

SEC. 2. Chapter 4 (commencing with Section 1630) is added to Part 5 of Division 4 of the Family Code, to read:

CHAPTER 4. ~~COVENANT MARRIAGE~~ VOLUNTARY COVENANT
MARRIAGE AND CHILD PROTECTION ACT OF 2006

1630. This chapter shall be known and may be cited as the ~~“Covenant Marriage”~~ *“Voluntary Covenant Marriage and Child Protection Act of 2006.”*

1631. (a) For couples that enter into a covenant marriage, a dissolution of the marriage or a legal separation of the parties on grounds of irreconcilable differences shall not be granted unless the requirements set forth in this chapter have been satisfied.

(b) A couple who chooses to enter into a covenant marriage shall do all of the following:

(1) Receive a minimum of ~~three hours~~ *nine sessions* of premarital ~~counseling~~ *education counseling within a 12-week period* from any of the following:

(A) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.

(B) ~~Clergy or practitioners~~ *A clergy member or practitioner* in a religious institution performing counseling services as part of his or her pastoral or professional duties.

(C) A marriage and family ~~therapists~~ *therapist* licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(D) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(E) An official representative of a religious institution performing religiously sanctioned counseling.

(F) Any other qualified provider approved by the county board of supervisors.

(2) Indicate each parties' consent to a covenant marriage on the marriage license, along with acknowledgment of completion of premarital counseling.

~~(3) Receive a minimum of three hours of marital counseling prior to filing for a dissolution of marriage or legal separation from any one of the entities set forth in paragraph (1).~~

1 (3) Submit to the county clerk a certificate of completion from
2 one of the providers set forth in paragraph (1) declaring that the
3 premarital education counseling requirement has been fulfilled.

4 (4) Pay any cost associated with satisfying the premarital
5 education counseling requirement.

6 (c) All premarital education counseling providers in
7 paragraph (1) of subdivision (b) shall register with the county
8 clerk by filing a written affidavit that contains all of the
9 following:

10 (1) The provider's name, address, and telephone number.

11 (2) A summary of the provider's qualifications, proof of valid
12 license (if applicable), and a description of relevant training.

13 (3) A statement that the provider complies with the course
14 requirements specified in this section.

15 (d) A premarital education counseling provider shall provide
16 to each couple who completes the requirement a certificate of
17 completion that specifies all of the following:

18 (A) The names of the couple.

19 (B) The name of the provider.

20 (C) The date of completion of the premarital education
21 counseling requirement.

22 (e) If either party to a covenant marriage has full, partial, or
23 joint custody of a minor child, the parties shall receive a
24 minimum of nine sessions of predissolution counseling from any
25 of the providers set forth in paragraph (1) of subdivision (b) over
26 the course of the six-month period immediately preceding the
27 filing of a petition for dissolution of marriage or legal separation
28 before the parties may obtain a dissolution of marriage or legal
29 separation based on irreconcilable differences. At least one of
30 the first five predissolution counseling sessions shall address the
31 impact that a dissolution of marriage would have on the minor
32 children in the marriage. The parties shall submit to the court a
33 certificate of completion from one of the providers set forth in
34 paragraph (1) of subdivision (b) declaring that the predissolution
35 counseling requirement has been fulfilled.

36 (f) If neither party to the covenant marriage has full, partial,
37 or joint custody of a minor child, the parties shall receive a
38 minimum of six sessions of predissolution counseling from any of
39 the providers set forth in paragraph (1) of subdivision (b) over
40 the course of the three-month period immediately preceding the

1 *filing of a petition for dissolution of marriage or legal separation*
2 *before the parties may obtain a dissolution of marriage or legal*
3 *separation based on irreconcilable differences. The parties shall*
4 *submit to the court a certificate of completion from one of the*
5 *providers set forth in paragraph (1) of subdivision (b) declaring*
6 *that the predissolution counseling requirement has been fulfilled.*

7 1632. The court shall grant a dissolution of marriage or a
8 legal separation, without a party being subject to the counseling
9 ~~requirement~~ *requirements* pursuant to ~~paragraph (3) of~~
10 ~~subdivision (b)~~ *subdivisions (e) and (f)* of Section 1631, in the
11 event of any of the following:

12 (a) Spousal abuse.

13 (b) Commission of a felony.

14 (c) Adultery.

15 (d) Abandonment by the other spouse.

16 (e) Long periods of physical separation from the other spouse.

17 ~~1633. If a party has completed marital counseling prior to~~
18 ~~filing for a dissolution of marriage or legal separation, pursuant~~
19 ~~to paragraph (3) of subdivision (b) of Section 1631, and the party~~
20 ~~is unable to resolve differences with his or her spouse, the party~~
21 ~~may then seek a dissolution of the marriage or a legal separation~~
22 ~~on the basis of irreconcilable differences.~~

23 1633. *If the court determines that a party to a covenant*
24 *marriage has committed any of the acts listed in subdivisions (a)*
25 *to (e), inclusive, of Section 1632, the court shall have the*
26 *discretion to deviate from the manner of division of the*
27 *community estate set forth in Section 2550 in favor of the*
28 *innocent spouse.*

29 SEC. 3. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.